

**REMARKS**

The application as amended contains Claims 1-11 and 14-22. Claims 7, 8 and 10 have been withdrawn from consideration pending allowance of a generic claim. Claim 1 is generic. Claims 12-13 have been cancelled. Claims 21-22 are newly presented for consideration, and depend from independent Claim 1.

Claims 1, 2, 4, 6 and 9 stand rejected under 35 USC §102 or 35 USC §103. Claims 3 and 5 stand rejected under 35 USC §103. These rejections are respectfully traversed. Withdrawal of the rejections and reconsideration of the claims is respectfully requested.

Claims 14-20 have been allowed. Applicant acknowledges the Examiner's indication of allowable subject matter with thanks.

The specification is amended to include the claim to the benefit of a co-pending provisional application. The benefit claim was made in the Declaration and transmittal documents of this application, and acknowledged in the official filing receipt.

REJECTIONS UNDER 35 USC §102

Claims 1, 2, 4, 6 and 9 stand rejected under 35 USC §102(b) as being anticipated by Chancellor (US Pat. 3 314 193). This rejection is respectfully traversed.

It is well established that in order for a claim to be anticipated by a reference, each and every element of the claim must be found in the reference. Chancellor discloses a lawn edger consisting of a plurality of identical edging links pivotally connected for forming about a curve. Chancellor does not disclose a change of grade connector having first and second connector members, each of said members having a receiver for operably engaging a landscaping edging strip, and the landscaping edging strips being engaged by a respective receiver and fixed relative to the longitudinal axis of the respective connector member, as required by amended Claim 1.

Each of the links of Chancellor's disclosed lawn edger is pivotally connected to the adjacent link. Therefore, since Chancellor does not disclose each and every element of independent Claim 1, Claim 1 and its depending Claims 2, 4, 6 and 9 cannot be anticipated by Chancellor. Withdrawal of the rejection, and reconsideration and reexamination of the claims, is respectfully requested.

REJECTIONS UNDER 35 USC §103

Claims 1, 2-4, 6 and 9 stand rejected under 35 USC §103 as being unpatentable over Chancellor. This rejection is respectfully traversed.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

There is no suggestion or motivation, either in the reference itself or in the knowledge generally available to one of ordinary skill in the art, to modify the teaching of Chancellor "to use a unitary lawn edging strip with Chancellor's connecting members as an obvious design choice," as asserted by the Examiner. By its very nature, Chancellor's lawn edger is comprised of a plurality of pivotally connected links forming a flexible chain in order to form a curved boundary. There is no provision in Chancellor to use the links to connect landscape edging strips, nor is there any

teaching to fix a landscape edging strip relative to a longitudinal axis of a connecting member pivotally connected to a second connecting member, as required by Claim 1. Further, there is no teaching or suggestion to engage a second landscaping edging strip to the second connecting member and to fix the second landscaping edging strip relative to a longitudinal axis of the second connecting member, also as required by Claim 1. Withdrawal of the rejection of Claim 1, and Claims 2-4, 6 and 9, which depend from Claim 1, and reconsideration of the claims, is respectfully requested.

Claim 5 stands rejected under 35 USC 103 as being unpatentable over Chancellor, as applied to Claim 1, in view of Richet et al. (US 2002/0189162 A1). There is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the teaching of Chancellor and Richet et al. Even if the combination were made, however, it still fails to reach the claimed invention.

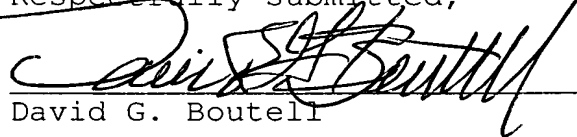
Claim 5, which depends from Claim 1, includes the limitation that the longitudinal axes can be inclined from 0 to 90 degrees. The Examiner has drawn upon Richet et al. to introduce the disclosure of a 90 degree displacement of a connector member to the Chancellor disclosure. As discussed above, however, Chancellor does not disclose each and every element of Claim 1, nor would it be obvious to modify the teaching of Chancellor to reach the claimed invention, wherein the landscaping edging strips are engaged by the connector members and are fixed relative to the longitudinal axis of a respective connector member. Richet et al. does not disclose the elements missing from the Chancellor disclosure. Therefore, even if the combination were made, it would still not reach Claim 5. Withdrawal of the rejection of Claim 5, and reconsideration of the claim, is respectfully requested.

CONCLUSION

In light of the foregoing amendments and remarks, the claims are believed to be in condition for allowance, and reconsideration of the claims is respectfully solicited.

Should the Examiner consider it necessary to expedite prosecution of the application, the Examiner is invited to contact the undersigned by telephone.

Respectfully submitted,



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